

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

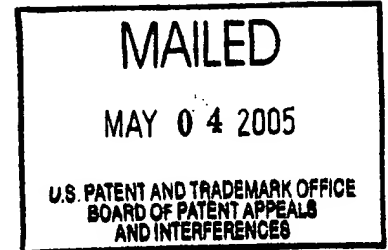
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SIEGFRIED KURTZER

Appeal No. 2005-1004
Application No. 09/656,333

ON BRIEF



Before MCQUADE, NASE, and BAHR, Administrative Patent Judges.
MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Siegfried Kurtzer appeals from the final rejection of claims 1, 2 and 7 through 11, all of the claims pending in the application.

THE INVENTION

The invention relates to a printing machine which is defined in representative claim 1 as follows:

1. A printing machine, comprising:
 - a drive unit;
 - rollers having a rotational movement and including a first sheet transport cylinder and a second sheet transport cylinder;
 - a first sheet gripper mounted on said first sheet transport cylinder;
 - a second sheet gripper mounted on said second sheet transport cylinder;
 - said first and second grippers executing cyclical movements having phases and being synchronized with said rotational

movement of said rollers and driven, together with said rollers, by said drive unit;

said first and second grippers having respective spring elements, said spring elements being stressed in one of said phases of the cyclic movement and relieved of stress in another of said phases of the cyclic movement, a respective one of said phases having a first one of said spring elements stressed being synchronized with a respective one of said phases having a second one of said spring elements relieved of stress;

said second sheet transport cylinder having a position defined for accepting a sheet to be printed from the first sheet transport cylinder and a position defined for surrendering the printed sheet and, on a path from said surrender position to said acceptance position, said second sheet gripper being actuatable for executing one of a movement stressing said spring element assigned thereto and a movement relieving the stress, while said first sheet gripper being actuatable for executing one of a closing movement relieving the stress on said spring element assigned thereto and a closing movement stressing said spring element.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Munker	5,271,323	Dec. 21, 1993
Schaede	5,839,366	Nov. 24, 1998

THE REJECTIONS

Claims 7 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter the appellant regards as the invention.

Claims 1, 2, 8 and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schaede.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schaede in view of Munker.

Attention is directed to the main and reply briefs (filed October 6, 2003 and February 17, 2004) and the final rejection and answer (mailed April 25, 2003 and December 16, 2003) for the respective positions of the appellant and the examiner regarding the merits of these rejections.¹

DISCUSSION

I. The 35 U.S.C. § 112, second paragraph, rejection of claims 7 and 9

The examiner's determination (see page 2 in the final rejection) that claims 7 and 9, which depend from claim 1, are indefinite due to the presence of a number of terms lacking a proper antecedent basis is reasonable on its face and has not been disputed by the appellant on appeal.²

¹Although the answer does not include a restatement of the 35 U.S.C. § 112, second paragraph, rejection set forth in the final rejection, the record does not contain any indication that the examiner intended to withdraw this rejection. We therefore assume that the examiner's failure to restate the rejection was an inadvertent oversight (see In re Bush, 296 F.2d 491, 496, 131 USPQ 263, 267 (CCPA 1961)).

²The appellant, in apparent agreement with the examiner's assessment, attempted to amend claims 7 and 9 subsequent to final rejection to overcome the rejection (see the paper filed July 28, 2003). The examiner, however, refused to enter the proposed

(continued...)

Therefore, we shall sustain the standing 35 U.S.C. § 112, second paragraph, rejection of claims 7 and 9.³

II. The 35 U.S.C. § 102(b) rejection of claims 1, 2, 8 and 10 as being anticipated by Schaede

Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

Schaede discloses a printing machine (see Figures 1 and 2) comprising a print cylinder 1, an impression cylinder 2 and four transfer cylinders 3, 4, 29 and 30. In use, transfer cylinder 3 acts as a hand-over cylinder for transporting sheets supplied by transfer cylinder 29 to the impression cylinder 2, and transfer cylinder 4 acts as a take-over cylinder for accepting printed sheets from the impression cylinder 2 and passing them on to transfer cylinder 30. To effect the conveyance of the sheets,

²(...continued)
amendment (see the advisory action mailed August 14, 2003).

³In addition to the terms noted by the examiner, the references in claims 7 and 8 to "said feed cylinder" also lack a proper antecedent basis. In the event of further prosecution, suitable steps should be taken to address these irregularities.

the transfer cylinders 3 and 4 include dipping gripper assemblies 9, 10, 11, 12, 15, 16, 17 and 18 which are controlled by a pair of cam disks 19, 20, 21 and 22 associated with each of the cylinders. Schaede's drawings indicate that the dipping gripper assemblies are spring-biased mechanisms which move in accordance with the profiles on the cam disks.

In applying Schaede to reject claim 1 (see pages 3 and 4 in the answer), the examiner reads the recitations of the first and second sheet transport cylinders on Schaede's transfer cylinders 3 and 4, respectively. Claim 1 requires the second sheet transport cylinder to have a position defined for accepting a sheet from the first sheet transport cylinder and a position defined for surrendering the sheet. In the examiner's view (see page 5 in the answer), Schaede's transfer cylinder 4 has a position for accepting a sheet at its nip with the impression cylinder 2 and a position for surrendering the sheet at its nip with transfer cylinder 30. Claim 1 also sets forth that, on a path from the surrender position to the acceptance position, the second sheet gripper (mounted on the second sheet transport cylinder) is actuatable for executing one of a movement stressing the spring element assigned thereto and a movement relieving the

stress. According to the examiner, the sheet grippers on Schaede's second sheet transport cylinder respond to these limitations because they "raise to their opening position upon stressing the spring element on a path from a surrender position to an acceptance position" (answer, page 6).

The fair teachings of Schaede do not justify this last finding. Clearly, the gripping assemblies on Schaede's cylinder 4 must be open at the above noted surrender and acceptance positions in order to permit the surrender and acceptance to occur. Schaede does not provide any factual support for the proposition that the gripping assemblies are actuatable for executing one of a movement stressing the spring element assigned thereto and a movement relieving the stress on the path from the surrender position to the acceptance position. Indeed, the depiction in Schaede's drawings of the profiles on the cam disks 21 and 22 associated with the transfer cylinder 4 indicates that the gripping assemblies do not undergo any movement along this path. Hence, the examiner's position that the subject matter recited in claim 1 is anticipated by Schaede is not well founded.

Accordingly, we shall not sustain the standing 35 U.S.C. § 102(b) rejection of independent claim 1, and dependent claims 2, 8 and 10, as being anticipated by Schaede.

As the examiner's application of Munker does not cure the foregoing deficiencies of Schaede relative to parent claim 1, we also shall not sustain the standing 35 U.S.C. § 103(a) rejection of dependent claim 11 as being unpatentable over Schaede in view of Munker.

SUMMARY

The decision of the examiner:

a) to reject claims 7 and 9 under 35 U.S.C. § 112, second paragraph, is affirmed;

b) to reject claims 1, 2, 8 and 10 under 35 U.S.C. § 102(b) as being anticipated by Schaede is reversed; and

c) to reject claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Schaede in view of Munker is reversed.

AFFIRMED-IN-PART

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